

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FLORENCE LAFICA and JOSEPH LAFICA,

Plaintiffs,

DECISION AND ORDER

07-CV-6010L

v.

GUIDANT CORPORATION, et al.,

Defendants.

On January 10, 2007, defendant removed this action based on negligence and products liability to federal court. On February 16, 2007, plaintiffs moved for leave to amend the complaint to add claims based on medical malpractice against two new defendants, pursuant to FED. R. CIV. P. 15(a). In the event the Court permits the amendment, plaintiffs further moved to remand the action back to state court pursuant to 28 U.S.C. § 1447(e) because the new defendants are residents of New York State and their addition to the lawsuit divests the Court of diversity jurisdiction.

Defendant does not oppose the motion.


After having reviewed the proposed amended complaint, the Court finds no reason why leave to amend should not be permitted. Plaintiffs' motion (Dkt. #6), therefore, is granted.

Upon the filing of the amended complaint, there will no longer be complete diversity of citizenship between the parties. Plaintiffs and defendants Thomas P. Stuver, M.D. and Rochester Cardiopulmonary Group, P.C., are all residents of New York State.

The Court, therefore, lacks jurisdiction over this action and it is remanded pursuant to 28 U.S.C. § 1447(e).

The Clerk of the Court is directed to file plaintiffs' proposed amended complaint. After filing the amended complaint, the Clerk is further directed to remand this action back to New York State Supreme Court, Monroe County.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
May 4, 2007.